THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

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WRIT PETITION NO.27610 OF 1996

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DATED 21—11—2006

K.Sudarshana Rao s/o Late K.Ramakrishnaiah,
35 years, Occ: Unemployee,
R/o H.No.21-1-5/1, Nandavari Street,
Kandukur, Prakasam District. …
Petitioner

v.

A.P. State Road Transport Corporation,
Rep. by its Regional Manager, Ongole,
Prakasam District. …
Respondent

THE HON'BLE SRI JUSTICE T.CH.SURYA RAO

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WRIT PETITION NO.27610 OF 1997

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ORDER:

The petitioner seeks a writ of mandamus for declaring the action on the part of the respondent Corporation in selecting Sri Sk.Ghalib who obtained 306 marks qua the petitioner who obtained 313 marks thereby ignoring the petitioner's candidature for appointment as arbitrary, illegal and violative of Articles 14 and 16 of the Constitution

of India.

Pursuant to the notification notifying the vacancies for the posts of Conductors the petitioner applied as one of the candidates. Out of 110 posts notified, 76 posts were allocated to the male candidates and the remaining 34 posts towards women candidates. Out of 76 posts allocated for male candidates, 39 posts were earmarked for open category and the rest for reservation categories. The petitioner's name was sponsored by the Employment Exchange also. No written examination was conducted by the Respondent Corporation. But the candidates were called to attend the Interview on 30.09.1996. However, basing on the marks obtained by them in the qualifying examination, namely, S.S.C., a merit list was prepared thereby rendering the process of Interview as nugatory. The petitioner came to know that certain weightage marks were given to the candidates who are in service depending upon the length of service. At the end, a select list was prepared and published on 28.10.1996. The name of the petitioner was not there in the list of selected candidates.

The petitioner along with five others filed a Writ Petition No.26081 of 1996. The petitioner belongs to open category. The persons who secured lesser percentage of marks in S.S.C. examinations were selected in the open category in preference to the petitioner. The said writ petition was disposed of by the High Court by its order dated 13.12.1996 with a direction to the respondent Corporation that the case of the petitioners therein shall be considered only if there are vacancies in the said category (namely reserved category). The petitioner learnt that one Sk.Ghalib who secured 306 marks in the qualifying examination was selected and his name was shown in the list of selected candidates in the open category. Thus, the process of selection is vitiated and is liable to be set aside.

Pursuant to the notice issued, the respondent Corporation appeared and filed its counter. The case of the respondent was that as per the recruitment regulations, no written examination is required for

the recruitment of the posts in question. Interviews were conducted from 30.09.1996 to 05.10.1996. The Committee constituted for that purpose verified the relevant certificates of the candidates and their requisite height. Weightage marks were given at the rate of one mark for each completed year from the date of completion of 21 years of age or the date of passing SSC or its equivalent examination whichever is later upto the completion of 30 years of age and thereafter from the date of completion of 31 years to 35 years at the rate of two marks for each completed year subject to a maximum of twenty marks. Finally, a selection list was prepared and published on 28.10.1996. The petitioner secured only 282 marks excluding Hindi subject whereas Sri Sk.Ghalib who belonged to Ex-serviceman had secured 306 marks excluding Hindi subject. The petitioner secured 18 bonus marks whereas Sri Sk.Ghalib secured 20 bonus marks. Thus, the said Ghalib secured more marks than the petitioner.

The learned counsel Sri S.Ashok Anand Kumar appearing for the writ petitioner represents that as per the regulations, the marks obtained in second language shall be excluded but in the case of Sri Sk.Ghalib they were included.

In view of the submissions made by the learned counsel appearing for the petitioner, the respondent Corporation was directed to produce the relevant record to show the marks obtained by the competing candidates and the merit list prepared at the end of selection process. Accordingly, the learned standing counsel produced the relevant record. On a perusal of the record shows that Sri Sk.Ghalib secured 306 marks in S.S.C. examination excluding the Hindi subject whereas the petitioner secured 287 marks excluding the Hindi subject. After having perused the relevant record, learned counsel appearing for the petitioner points out that in the marks sheet pertaining to Sri Sk.Ghalib, second language is shown as English subject and third language is shown as Hindi subject. Therefore, 53 marks secured by him in English subject shall be excluded but not 35

marks secured by him in Hindi subject. I am afraid, that this contention of the learned counsel appearing for the petitioner cannot be countenanced. A perusal of the regulations leaves no room for any doubt. That apart, uniformly the marks secured by the candidates in Hindi subject have been excluded. Thus, there is no discrimination from candidate to candidate. It has been mentioned specifically in Circular No.PD-41/1991 dated 29.05.1991 issued by the respondent Corporation prescribing the procedure to be followed in the selection process of Drivers and Conductors. It shows that the marks secured in Hindi subject in S.S.L.C. or its equivalent examination should be deleted for calculation of percentage of marks. Although it has been mentioned in the regulation that the marks secured in the second language shall have to be excluded, it has been sought to be clarified by specifically naming the subject therein. Even by means of the said Circular, the respondent Corporation further clarified the procedure to be followed in the recruitment process by excluding marks secured in Hindi subject. The Circular issued by the respondent Corporation is not under challenge in this writ petition before me. As discussed hereinabove, no discrimination has been pointed out from candidate to candidate in having followed the procedure. In that view of the matter, the Corporation following the Circular issued by it earlier uniformly deleted the marked secured by the candidates in Hindi subject for the purpose of calculating percentage. I, therefore, see no illegality that has been committed by it which vitiates the selection process.

At this stage, the learned standing counsel appearing for the respondent Corporation represents that although it has not been taken as a specific plea *inter alia* in the counter, a perusal of the original merit list shows that the person by name Sk.Ghalib is selected not in the open category but in the B.C. category and there cannot be any equation in between the petitioner and the said Ghalib. The learned standing counsel pointed out that among the candidates belonging to the open category, the least marks secured by the selected candidates

was 87.6%. If at all there is any equation so as to eventually point out the discrimination if any, the petitioner should point out from among the open category candidates. Although the plea has not been taken *inter alia* in the counter, when it is being disclosed clearly from the record, the patent cannot be ignored. In that view of the matter, the petitioner cannot compare himself with the selected candidate by name Sk.Ghalib whose name could find a place in the list of selected candidates. Since the petitioner could not obtain more than 87.6% marks which was the least percentage of marks secured by the last candidate in the open category, his non-selection cannot legitimately be attributed by one ground or the other to the respondent Corporation.

Furthermore, when the Committee constituted for the said purpose has categorically decided to consider the height and percentage of marks secured by the candidates at the time of Interview, even the process of Interview cannot be questioned legitimately by the petitioner on the premise that it was rendered nugatory since no separate marks are given for the Interview or oral examination.

For the above reasons, I see no infraction of any of the provisions of the Constitution of India or the regulations framed by the respondent Corporation for the purpose of recruitment to the posts in question. The Writ Petition, therefore, must fail and is dismissed accordingly. No order as to costs.

21---11---2006

VGSR